



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

**Certified Mail:** 7008 1140 0004 5421 4096  
*Return Receipt Requested*

Albert M. Cohen  
Loeb & Loeb LLP  
10100 Santa Monica Boulevard  
Suite 2200  
Los Angeles, California 90067

Re: Cooper Drum Superfund Site - Ability to Pay Application

Dear Mr. Cohen:

The U.S. Environmental Protection Agency, Region IX ("EPA") has received information from you in response to EPA's letter dated August 5, 2008, relating to the Cooper Drum Superfund Site (the "Site"). We appreciate your efforts on behalf of Powerine Oil Company ("Powerine") in providing this information.

EPA has reviewed the information you provided relevant to Powerine's claim of an inability to pay response costs at the Site, and has determined that additional supporting and/or clarifying information is necessary to proceed with the evaluation. Accordingly, please submit the following information and documents within the next thirty (30) calendar days:

\* \* \* \* \*

1. Read and complete the attached "Certification Statement for Ability to Pay Information."
2. Provide a current organizational chart of the Energy Merchant Corp. and Energy Merchant, LLC corporate entities, subsidiaries and affiliates. Alternatively, provide a narrative explanation of the organizational structure of Powerine Oil Company's ultimate parent company and all entities within the corporate umbrella, including inter-company relationships.
3. If they are prepared, provide consolidated tax returns for the last three years for the ultimate parent company of Powerine Oil Company. If consolidated returns are not prepared, provide tax returns for the last three years for Energy Merchant Corporation and each of its subsidiaries. The information should include complete asset, liability, income and expense data for not only Powerine Oil Company, but each entity within its corporate umbrella.
4. Provide the audited financial statements for the last three years for the ultimate parent company of Powerine Oil Company.

5. Provide a copy of all applications for loans, credit, or other financing arrangements made by all companies within the "Energy Merchant Corporation" umbrella.

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Under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA has broad information gathering authority which allows it to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

Please note that compliance with this Information Request is mandatory. Failure to respond fully and truthfully may result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). This statutory provision also authorizes EPA to seek the imposition of penalties of up to \$32,500 per day of noncompliance. Please be further advised that providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

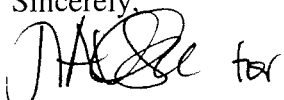
This request for information is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§ 3502(3), 3507, 3512, and 3518(c)(1). See also 5 C.F.R. §§ 1320.3, 1320.4, and 1320.6.

Instructions provided in EPA's August 5, 2008 letter to you are incorporated here by reference. Please send your response to:

Kate Taylor  
United States Environmental Protection Agency, Region IX  
75 Hawthorne Street, SFD-7-5  
San Francisco, CA 94105

If you have any questions regarding this information request, please call Kate Taylor at (415) 972-3123. For other questions regarding the Site, please contact Jim Collins at (415) 972-3894.

Sincerely,



Kathi Moore, Manager  
Superfund Case Development and Cost Recovery Section

Enclosure: Certification Statement for Ability to Pay Information

Cooper Drum Superfund Site  
Certification Statement for Ability to Pay Information  
**Powerine Oil Company**

I am the authorized agent for the below-designated entity or individual. I have personally examined and am familiar with the information submitted in the ability to pay application and all of its attachments previously provided by letter dated November 18, 2008 and also in this current submission. I certify under penalty of perjury that, to the best of my knowledge and belief, and based on reasonable investigation, the submitted information is true, accurate and complete. On behalf of the below-designated entity or individual, I acknowledge a continuous and ongoing obligation to update EPA should any additional information relevant to this application become available, including but not limited to any material changes to the entity or individual's financial condition, prior to final execution of the settlement agreement. I also understand that knowingly making a false statement in this application or its attachments, or withholding or intentionally omitting material information, may be grounds for EPA to deny my claim of an inability to fully pay the costs in question, and may also subject me to significant criminal, civil, or administrative penalties, including the possibility of fine and imprisonment.

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DATE

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Powerine Oil Company

APPLICANT

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SIGNATURE OF AUTHORIZED AGENT

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PRINTED NAME OF AUTHORIZED AGENT

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TITLE OF AUTHORIZED AGENT